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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

IN THE MATTER OF:

JORGE L. HOLGUIN DBA LETTY'S TIRES

TPID NO: 1004521-01

RESPONDENT.

AMENDED COMPLAINT REQUESTING
DETERMINATION OF DEFAULT OF
STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION

AGENCY NOS. 2008-000041-DEN and
2009-011090-ADC
OAH NOS. 2009-010735 and 2009-
010350

This is to notify you that you are in default of the terms of the Stipulation for Issuance of Administrative Decision (Stipulation), which was adopted by the former California Integrated Waste Management Board (CIWMB) and is now California Department of Resources Recycling and Recovery (CALRECYCLE) in its March 4, 2009, Decision. CalRecycle succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC section 40401(a)(1). You are in default for the following reasons:

1. You or your employees or agents were hauling more than 9 waste and/or used tires on numerous occasions when your waste and used tire hauler registration (Registration) was suspended or denied. These violations are as follows:

- 1 a. On or about February 23, 2009, February 24, 2009, March 12, 2009, and
2 March 24, 2009, a truck registered with the Department of Motor Vehicles to
3 Mr. Jorge Holguin, with license plate number 9D59092, hauled more than
4 nine used or waste tires to the Mitsubishi Cement Corporation on thirteen
5 occasions. This truck was not registered for used and waste tire hauling with
6 CALRECYCLE in accordance with 14 CCR section 18454(f).
- 7 b. On or about March 18, 2009 and March 19, 2009, a truck with DMV license
8 plate number 9D39532 and registered with DMV to Jorge Holguin, hauled
9 more than nine used or waste tires to Mitsubishi Cement Corporation on at
10 least three occasions. This truck was not registered for used and waste tire
11 hauling with CALRECYCLE in accordance with 14 CCR section 18454(f).
- 12 c. On or about March 24, 2009, a truck with DMV license no. 9D39532, and
13 registered with DMV to Jorge Holguin, was hauling more than nine used or
14 waste tires. The CHP issued a citation for Vehicle Code section 31560,
15 improper waste tire registration, to Jose Muro because this truck was not
16 registered for used and waste tire hauling with CALRECYCLE in accordance
17 with PRC section 42951.

18 2. On or about March 12, 2009, CALRECYCLE executed an Administrative
19 Decision for Denial of the Waste and Used Tire Hauler Registration for LETTY'S TIRES
20 (TPID # 1004521), denying LETTY'S TIRES the use of the Waste and Used Tire Hauler
21 Registration for a period of nine (9) months from January 1, 2009 to September 30,
22 2009. The corresponding Stipulated Agreement required that LETTY'S TIRES not allow
23 any of its vehicles to be used by another person or business to haul waste or used tires
24 during the denial period.

25 3. Paragraph 14 of the Stipulation For Issuance of Administrative Decision
26 for the Denial of Waste and Used Tire Hauler Registration (Stipulation), which you
27 signed on February 26, 2009, states specifically that you are in default of the Stipulation
28 if you transport used or waste tires during the period of registration suspension.

1 Furthermore, 14 CCR section 18457(d) provides that the waste tire hauler shall not
2 transport used or waste tires, nor own, operate, or be an officer of a waste tire hauling
3 business entity or corporation during the period of suspension or revocation.

4 4. JORGE HOLGUIN acted in bad faith by circumventing CALRECYCLE
5 laws so that he could continue in the hauling business even though he had stipulated to
6 a suspension of his used and waste tire hauling registration for nine months.
7 Specifically, prior to the settlement conference concerning the Statement of Issues
8 denying the used and waste tire hauler registration, JORGE HOLGUIN'S wife, LETICIA
9 HOLGUIN, applied to CALRECYCLE for a hauler registration under the name of Paola
10 Zaldivar dba Paola's Tire on December 31, 2008. Paola's Tire is a continuation of and
11 one and the same as LETTY'S TIRES as can be shown by the following:

- 12 • LETICIA HOLGUIN was part owner of LETTY'S TIRES.
- 13 • A Paola customer called LETTY'S TIRE'S phone number to ask for pick-ups of
14 their tires.
- 15 • A number of PAOLA'S TIRES invoices state to send payment to LETTY'S TIRES
16 address.
- 17 • A number of invoices showed "LETTY'S TIRES/PAOLA'S TIRES".
- 18 • PAOLA'S TIRES used vehicles registered to JORGE HOLGUIN for hauling used
19 and waste tires.

20 5. LETICIA HOLGUIN signed as a "Personal Indemnitor" on the waste tire
21 hauler indemnity agreement between American Contractors Indemnity Company and
22 "Jorge L. Holguin."

23 6. On or about November 13, 2008, during an inspection at Skyview Terrace
24 Storage, JORGE HOLGUIN informed Stephen Dolan, Integrated Waste Management
25 Specialist for CALRECYCLE's Tire Enforcement Section, that his wife managed the
26 paperwork and that "it is her business."

27 7. PAOLA'S TIRES requested that payment for tire hauling services be sent
28 to LETTY'S TIRES address. On or about January 28, 2009, Stephen Dolan, Integrated

1 Waste Management Specialist for CALRECYCLE Tire Enforcement Section, obtained
2 Invoice Number 439427 during a routine inspection at San Fernando Brake and Tire.
3 The return address at the top of the invoice listed 504 North Hagar Avenue, San
4 Fernando, California, however, the invoice requested payment be sent to 10463 Telfair
5 Avenue, Pacoima, California, 91331, the address listed by LETTY'S TIRES in its Waste
6 and Used Tire Hauler Application.

7 8. During the inspection on or about March 23, 2009, at 504 North Hagar,
8 San Fernando, California, as documented in Waste Tire Survey and Inspection Report
9 Survey Form I3-1059665, Mr. Dolan obtained an invoice on PAOLA'S TIRES
10 letterhead, but the check attached had been made payable to LETTY'S TIRES. Mr.
11 Dolan also obtained another of PAOLA'S TIRES invoices; the text of which directed
12 payment to the home address of JORGE. Moreover, at the same time, Mr. Dolan
13 observed multiple invoices on PAOLA'S TIRES letterhead that directed payment to Post
14 Office Box 330958 in Pacoima. Postmaster General documents indicate that same Post
15 Office Box was obtained by LETICIA HOLGUIN, wife of JORGE HOLGUIN, with a
16 physical address of 10463 Telfair Avenue, Pacoima California, the same address
17 provided in LETTY'S TIRES Waste and Used Tire Hauler Application. When asked
18 follow-up questions, PAOLA'S TIRES was unable to answer questions regarding the
19 lock mechanism on the same Post Office box, or where it was located.

20 9. PAOLA'S TIRES and LETTY'S TIRES also used the same phone number
21 when dealing with clients. On or about February 2, 2009, Mr. Tracy inspected American
22 Tire Depot. During that inspection, Mr. Tracy obtained Comprehensive Trip Log (CTL)
23 receipt numbered 3912749 which had been completed by PAOLA'S TIRES. Mr. Tracy
24 compared the telephone number on CTL receipt numbered 3912749, to a separate CTL
25 receipt numbered 3579982, which had been completed by LETTY'S TIRES. Both CTL
26 receipts showed the same phone number in the box reserved for "Hauler Telephone
27 Number," which is the same phone number listed in LETTY's TIRES Waste and Used
28 Tire Hauler Application, (818-890-3186).

1 10. On or about February 2, 2009, Mr. Tracy inspected BAS Recycling, Inc.,
2 located at 1400 North H Street, San Bernardino, CA. During that inspection Mr. Tracy
3 obtained invoices, receipts and CTL receipt's demonstrating PAOLA'S TIRES and
4 LETTY'S TIRES to be the same hauler for a single transaction. Three such invoices,
5 Receiving Report Numbers 28306, 28314, and 28324 listed LETTY's TIRES in the
6 reference section, but corresponding CTL receipts numbered 3912690, 3912671, and
7 3912747 listed PAOLA'S TIRES phone number, 818-219-5366. Another such invoice,
8 Receiving Report Number 28307 listed LETTY'S TIRES in the reference section, but the
9 CTL receipt listed PAOLA'S TIRES as the hauler, and listed LETTY'S TIRES telephone
10 number 818-890-3186.

11 11. PAOLA ZALDIVAR stated that she knew very little about her business. On
12 or about March 23, 2009, Mr. Dolan inspected PAOLA'S TIRES facility to further
13 investigate the above-described allegations. During that inspection, as documented in
14 Waste Tire Survey and Inspection Report Form I3-1059665. Mr. Dolan spoke with
15 PAOLA ZALDIVAR. PAOLA ZALDIVAR was unable to provide neither her business e-
16 mail address, nor her log-in information. PAOLA ZALDIVAR was also unable to answer
17 Mr. Dolan's questions regarding her Surety Bond with CALRECYCLE, specifically, the
18 cost of the Surety Bond and how it was paid for. PAOLA ZALDIVAR further stated that
19 she would contact the driver to pick up tires only after she was contacted by customers,
20 however, she later stated that she did not know how to get a hold of the driver and did
21 not have his phone number.

22 12. PAOLA'S TIRES and LETTY's TIRES information appeared on
23 documents regarding the same hauled loads. On or about March 25, 2009, Mr. Tracy
24 inspected Mistubishi Cement Plant in Lucerne Valley, California. During the inspection
25 Mr. Tracy observed CTL receipts and corresponding Bills of Lading that referenced both
26 LETTY'S TIRES and PAOLA'S TIRES on the same document.

27 13. RESPONDENT misrepresented information to CALRECYCLE to conceal
28 the fact that it continued to haul. The vehicle license plate numbers and names of

1 drivers listed on four (4) CTL receipts did not correspond to those listed on the Bills of
2 Lading found at Mitsubishi Cement Plant. In all four (4) instances, the Bills of Lading,
3 numbers 68542, 68533, 68506, and 68507, showed that PAOLA'S TIRES used a truck
4 with license plate 9D59092 CA; a truck registered to LETICIA ZALDIVAR by the DMV
5 and to LETTY'S TIRES by CALRECYCLE, however the four (4) corresponding CTL
6 receipts submitted to the CALRECYCLE, numbered 3912871-A, 3912718-B, 3912884-
7 A, and 3912763-B listed a truck 8J27289 CA. A truck with license plate number
8 9D95092, was also listed on eleven (11) Bills of Lading, including the four above,
9 numbered 68542, 68533, 68516, 68506, 68507, 69309, 69312, 68992, 68989, 68983,
10 and 68975, whose corresponding CTL Receipts, numbered 3912871-A, 3912718-B,
11 3912886-A, 3912884-A, 3912763-B, 3912892-A, 3912891-A, 3299752-A, 3912830-C,
12 3912831-C, and 391233-D, listed PAOLA'S TIRES as the hauler. Additionally, three (3)
13 Bills of Lading, numbered 69203, 69200, and 69195 listed as hauler a vehicle with
14 license plate number 9D39532, a vehicle registered with the DMV to JORGE HOLGUIN,
15 but never registered with the CALRECYCLE; the corresponding CTL receipts,
16 numbered, 3912646-B, 3912847-C, and 3912848-C showed these loads as hauled by
17 PAOLA'S TIRES.

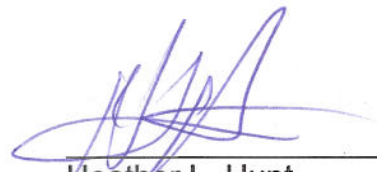
18 14. As discussed in the paragraphs above, RESPONDENT is one and the
19 same as PAOLA'S TIRES, and PAOLA'S TIRES is simply a continuation of LETTY'S
20 TIRES. RESPONDENT used PAOLA'S TIRES' 2009 Registration to collect waste or
21 used tires from its customers, and then to illegally haul the tires to an unpermitted waste
22 tire facility thereby creating or contributing in the creation of an unpermitted minor waste
23 tire facility in violation of PRC section 42834. On or about August 12, 2009,
24 RESPONDENT stored waste or used tires in various vehicles, including license plate
25 number 8F35947, at 11051 Pendleton Street, in Sun Valley, California.

26 15. CALRECYCLE is requesting a determination of default of the terms of the
27 Stipulation. A determination of default will result in \$10,000.00 in penalties and
28 permanent revocation of the waste and used tire hauler registration.

1
2 **HEARING RIGHTS**

3 You were notified that pursuant to the provisions of section 42960 of the
4 California Public Resources Code and Government Code section 11506, that you are
5 entitled to a hearing to refute the allegations against you contained in this AMENDED
6 COMPLAINT REQUESTING DETERMINATION OF DEFAULT OF STIPULATION FOR
7 ISSUANCE OF ADMINISTRATIVE DECISION. You requested a hearing in a timely
8 fashion. A hearing is scheduled for June 28, 29 and 30, 2010, at the Office of
9 Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California
10 90013.

11
12 Dated this 15th day of June, 2010.



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Resources Recycling and
Recovery